

Serial No.: 10/518,920  
Art Unit: 2682

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Figs. 1 and 2. This sheet, which includes Figs. 1 and 2, replaces the original sheet including Figs. 1 and 2.

### REMARKS

The Examiner has rejected claims 1-25 as being indefinite for failing to particularly point out and to distinctly claim the subject matter which the applicant regards as the invention, and as being anticipated by Smith et al. (US 6,246,237).

The applicant considers that the newly amended claims now particularly point out and distinctly claim the subject matter of the invention.

The applicant also considers that the newly amended claims clarify the invention and distinguish the invention over the disclosure of Smith et al., for the following reasons.

Notwithstanding the Examiner's comments with regard to Smith et al., there are inventive differences between the present invention and the disclosure in Smith et al. and, as such, the §102(b) rejection of the claims is respectfully traversed. In Smith et al., adjustments are made to the probe 14 based on a **character of the sample** - see claim 1, of Smith et al. - whereas the present invention makes adjustment based on extraneous parameters i.e. of **the article or item that contains the sample**. This is a fundamental difference. The present invention was devised because the temperature (or indeed any other characteristic) of the sample is unknown and so the probe/coil cannot be adjusted on this. The present invention seeks to overcome this important problem. Smith et al. is wholly silent on this issue. Accordingly, a person skilled in the art taking the teachings of Smith et al. would not arrive at the present invention, and it therefore involves an inventive step.


To make this clear, a clarifying amendment to the specification has been made at page 10, line 2. Support for this amendment can be found at page 10, line 20, page 20, lines 12-13 and 30, page 22, lines 6-7 and claim 1, line 3, of the specification on file.

A further inventive difference between the present invention and that disclosed in Smith et al. is that Smith et al. makes the adjustment while irradiating, whereas, in the present invention, this is done prior to irradiation. Claim 1 has therefore been further amended to distinguish the present invention over Smith et al. In particular, amended claim 1 is now restricted to define the invention in terms of the adjustment and operation of the irradiation means being carried out prior to scanning. Support for this feature can be found at page 9, lines 17-26, and page 10, line 3 to page 11, line 10.

The present invention as defined by the new claims is therefore not only novel over Smith et al., but also involves an inventive step.

In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

Date: October 12, 2006

Respectfully submitted,  
By:  **RICK A. TOERING**  
Lawrence D. Eisen #43,195  
Registration No. 41,009

**PAUL HASTINGS JANOFKY & WALKER LLP**  
875 15<sup>th</sup> Street, N.W.  
Washington, DC 20005  
Direct Dial: 202-551-1879  
Main: 202-551-1700  
Fax: 202-551-0279